

RETURN RECORDED DOCUMENT TO THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENTAL
PROTECTION

LAND USE COVENANT

The WEST VIRGINIA DEPARTMENT OF TRANSPORTATION, WEST VIRGINIA DIVISION OF HIGHWAYS has entered into a Voluntary Remediation Agreement (hereinafter referred to as "the Agreement") with the Department of Environmental Protection for the State of West Virginia pursuant to the Voluntary Remediation and Redevelopment Act, W.Va. Code §§ 22-22-1 through 22-22-21 (hereinafter referred to as "the Act"), for certain property, located in the City of Clarksburg, Coal-Clarksburg Corp. District, Harrison County, West Virginia and more particularly described in a deed of record in the office of the Clerk of the County Commission of Harrison County, West Virginia. The legal description and plat of survey of the property is included as Exhibit A to this Land Use Covenant. In the Agreement, the current owner of this property, the Harrison County Commission, hereinafter referred to as "Owner," has agreed to the imposition of the restrictions on this property, as required by the Agreement. The Agreement allows certain levels of contamination to remain on the property and requires a land use covenant be recorded in the office of the Clerk of the Harrison County Commission for the purposes of protecting public health and the environment and to prevent interference with the performance, operation and maintenance of any remedial actions required by the Agreement.

NOW THEREFORE, the following restrictions shall apply to this property:

1. The Owner shall prohibit all activities on the property which may interfere with the remedial action required by the Agreement.

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2. The Owner shall prohibit all activities that may result in human exposures above those specified by the Agreement or that would result in the release of a contaminant that was contained as part of the remedial action. These activities include, but are not limited to the extraction of groundwater for any potable or nonpotable uses.

3. The Owner shall restrict the uses of the property such that the property is used for "Nonresidential" purposes only, as defined in W.Va. Code §22-22-2(q) (2002).

4. The Owner shall provide written notice to the Secretary of the Department of Environmental Protection of the intent to transfer any interest in the property.

5. The Owner shall not convey any title, easement, or other interest in the property without adequate and complete provision for the continued implementation, operation and maintenance of any remedial action that has been implemented on the property pursuant to the Agreement and without assuring prevention of the releases and exposures described in the provisions of paragraph 2, above.

6. The Owner shall grant the West Virginia Department of Environmental Protection and its designated representatives the right to enter the property at reasonable times for the purpose of monitoring compliance with the Agreement, and the Certificate of Completion, including the right to take samples, inspect the operation to evaluate the effectiveness of remedial activities, and inspect records all as provided in the Agreement.

7. The Department of Environmental Protection may enforce the restrictions set forth in this Land Use Covenant by legal action in a court of appropriate jurisdiction.

8. In accordance with the provisions of the Act regarding land use covenants, W.Va. Code §22-22-15, and in addition to any rights or duties contained in the Certificate of

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Completion, this Land Use Covenant relieves the applicant, its successors and assigns, the Owner and any subsequent successors and assigns of the Owner, and any person identified in W.Va. Code §22-22-18 from all civil liability to the state as provided under the Act so long as the property complies with the applicable standards identified in the Agreement.

9. The restrictions and other requirements described in this Land Use Covenant shall run with the land and shall be binding upon any future owners, successors or assigns and their authorized agents, employees or persons acting under their direction or control. Subject to subsequent written modification or release signed by the Secretary and the owner at the time of such modification or release, and filed in the office of the Clerk of the County Commission of the county where these covenants have been recorded, this Land Use Covenant shall continue in perpetuity.

10. If any provision of this Land Use Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof. All such other provisions shall continue unimpaired and in full force and effect.

11. This Land Use Covenant shall not be amended, modified or terminated except by written instrument executed by and between the Owner at the time of the proposed amendment, modification or termination, and the Secretary of the West Virginia Department of Environmental Protection, or her successor in accordance with regulations promulgated by the Secretary or her successor. Within 5 days of executing an amendment, modification or termination of this Land Use Covenant, the Owner shall record such amendment, modification or termination with the Clerk of the Harrison County Commission, and within 5

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days thereafter, the Owner shall provide a true copy of the recorded amendment, modification or termination to the Secretary of the Department of Environmental Protection.

The undersigned persons executing this Land Use Covenant on behalf of the Owner represent and certify that they are duly authorized and have been fully empowered to execute and deliver this Land Use Covenant.

IN WITNESS WHEREOF, the said Owner of the above-described property and the Secretary of the Department of Environmental Protection have caused this Land Use Covenant to be executed this 16th day of July, 2004.

SIGNED:

[Signature]
President, Harrison County Commission

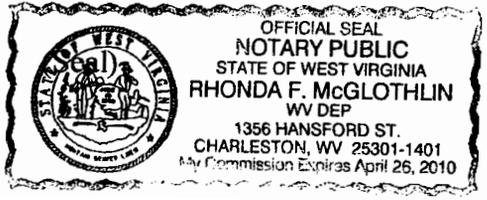
Ken Ellison, Director
Secretary, Department of Environmental Protection

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, to-wit:

I, Rhonda F. McGlothlin, a Notary Public in and for the State and County aforesaid, do hereby certify that Ken Ellison, Director for Secretary of the West Virginia Department of Environmental Protection, whose name is signed to the writing above, bearing date the 16th day of July, 2004, has this day acknowledged same to be the true act and deed.

Given under my hand this the 16th day of July, 2004.

My commission expires April 26, 2010.



Rhonda F. McGlothlin
Notary Public

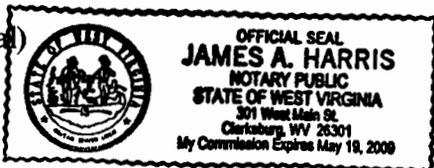
STATE OF WEST VIRGINIA,
COUNT OF HARRISON, to-wit:

I, James A. Harris, a Notary Public in and for the State and County
aforesaid, do hereby certify that ROGER DIAZ, President of the Harrison County Commission,
whose name is signed to the writing above, bearing date the 16th day of
July, 2004, duly elected and with full authority to execute the same,
has this day acknowledged same to be the true act and deed of the Harrison County Commission.

Given under my hand this the 22nd day of July 2004.

My commission expires May 19, 2009.

(Seal)



James A. Harris
Notary Public

EXHIBIT A

Legal Description and Plat of Survey

Legal Description
(VRP Parcel Boundary)

A parcel of land located along the West Fork River, in the City of Clarksburg, Coal-Clarksburg Corp. District, Harrison County, West Virginia, being a portion of the tract now or formerly owned by the County Commission of Harrison County, and more particularly described as follows:

Beginning at a point on the southern right of way line of U.S. Route No. 19, said point being located approximately 510 feet (scaled distance) from its intersection with the northern right of way line of CSX Transportation, Inc., and being a railroad spike found. Thence, from said **Point of Beginning**, leaving said right of way,

S 55°01'57" E, 90.5 feet, to a point on said northern right of way line of CSX Transportation, Inc., thence, with said CSX Transportation, Inc. right of way,

S 39°16'51" W, 55.66 feet, to a point, thence, leaving said right of way,

N 55°01'57" W, 42.95 feet, to a point, thence,

S 34°54'38" W, 54.50 feet, to a point, thence,

N 55°01'57" W, 43.96 feet, to a point on said southern right of way line of U.S. Route No. 19, thence, with said right of way line,

N 35°14'57" E, 110.00 feet, to the **Point of Beginning**, containing 0.168 acres, more or less.

EXHIBIT A

Site Location Map

